

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Philip T. Davis, Janet M. McCune, Hugh Forcier

Application No.: 09 / 328,856 Group No.: 2761

Filed: June 9, 1999

Examiner:

For: Method and system for providing insurance protection against loss of retirement accumulations in a tax favored defined contribution plan in the event of a participant's disability

Box DAC Assistant Commissioner for Patents

Washington, D.C. 20231

ATTENTION: Petition Information

Crystal Park One, Suite 520

(M.P.E.P. § 1002.02(b), 7th ed.)

RECEIVED

AUG 25 2000

OFFICE OF PETITIONS

PETITION FOR REVIVAL OF AN APPLICATION  
FOR PATENT ABANDONED UNINTENTIONALLY UNDER  
37 C.F.R. § 1.137(b)

NOTE: "In a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995, any petition to revive pursuant to this section must be accompanied by a terminal disclaimer and fee as set forth in § 1.321 dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application. Any terminal disclaimer pursuant to this paragraph must also apply to any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the application for which revival is sought. The provisions of this paragraph do not apply to lapsed patents." 37 C.F.R. § 1.137(c).

NOTE: In accordance with the Notice of November 5, 1990 (1121 O.G. 6), an application abandoned under 37 C.F.R. § 1.53(d) for failure to timely provide the appropriate filing fee, oath or declaration and/or surcharge may be revived under the procedure of 37 C.F.R. § 1.137(b).

1. This application became abandoned on 09/02/99

NOTE: Extensions under 37 C.F.R. § 1.136 are available only if asked for "prior to or with the response." Accordingly, if the question of abandonment arises when the provisions of § 1.136 can no longer be used, then the application is abandoned when the unextended time for response expired. Therefore, no extension fees are due on a petition for revival. Thus: An application which is abandoned for failure to respond within a set period with no extension fee having been paid, would not require the payment of extension fees as a condition for revival. M.P.E.P. § 711.03(c), 6th ed., rev. 2.

08/23/2000 ENAMOND 00000001 09328856

01 FC:141

1210.00 OP

## CERTIFICATE OF EXPRESS MAILING (37 C.F.R. § 1.10)

I hereby certify that this correspondence is, on the date shown below, being:

## MAILING

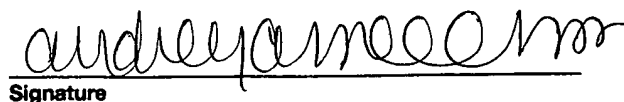
☒ deposited with the United States Postal Service as "Express Mail Post Office to Addressee" to the Assistant Commissioner for Patents, Washington, D.C. 20231.

Express Mail Label  
No. EH651173528US

Date: August 16, 2000

## FACSIMILE

☐ transmitted by facsimile to the Patent and Trademark Office.



Signature

Audrey A. Millemann  
(type or print name of person certifying)

(Petition for Revival of Unintentionally Abandoned Application [11-3]—page 1 of 3)

NOTE: Each paper or fee referred to as enclosed has the Express Mail label number placed thereon. (37 C.F.R. 1.10(b).)

2. This application became abandoned because the failure to prosecute was an unintentional delay. The entire delay in filing the required reply from the due date until the filing of this petition was unintentional 37 C.F.R. § 1.137(b)(3).

3. Response or action required

☐ has been filed.

☒ is attached.

(complete the following, if applicable)

NOTE: The PTO accepts the filing of a continuing application as a response under 37 C.F.R. 1.137. To facilitate processing in such a case, the petition to revive should specifically refer to the filing of a continuing application and also include an express abandonment of the prior application conditioned upon the granting of the petition and the granting of a filing date to the continuing application. Notice of May 13, 1983, (1031 O.G. 11-12). See also M.P.E.P. § 711.03(c), 6th ed., rev. 2. "In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof." 37 C.F.R. § 1.137(b)(1).

☐ The response is the filing of a continuation application having an express abandonment conditioned on the granting of a filing date to the continuing application copending with this application.

4. Fee (37 C.F.R. 1.17(m))

Application status is:

☐ Small business entity—fee \$605.00

☐ A statement is attached.

☐ A statement was filed.

☒ Other than small entity—fee \$1,210.00

5. Payment of fee

☒ Enclosed please find check for ☐ \$605.00. ☒ \$1,210.00.

☒ Charge Account 501176 for any additional fee required.

☐ Charge Account \_\_\_\_\_ the sum of ☐ \$605.00. ☐ \$1,210.00.

A duplicate of this petition is attached.

(complete the following, if applicable)

- ☐ Because this petition is more than 3 months after the date the Office first notified the applicant that the application is abandoned, applicant additionally submits a showing as to how the delay between the date the applicant was first notified that the application is abandoned and the filing of this petition under 37 C.F.R. § 1.134(b) was unintentional. 62 Fed. Reg. 53,131, 53,159 (Oct. 10, 1997).
- ☐ Because this petition is more than 1 year after the date of abandonment of the application, applicant additionally submits further information as to when applicant (or applicant's representative) first became aware of the abandonment of the application, and a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant (or applicant's representative). 62 Fed. Reg. 53,131, 53,159 (Oct. 10, 1997).

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of person making statement  
that abandonment was due to an unintentional delay

\_\_\_\_\_  
(type or print name of person making statement)

\_\_\_\_\_  
Residence of person making statement

Reg. No.: 44,942

Tel. No.: ( 916 ) 558-6033

Customer No.:

\_\_\_\_\_  
SIGNATURE OF PRACTITIONER

Audrey A. Millemann

\_\_\_\_\_  
(type or print name of practitioner)

WEINTRAUB GENSHLEA CHEDIAK SPROUL

400 Capitol Mall, 11th Floor

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P.O. Address

Sacramento, CA 95814

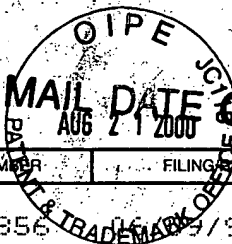


## UNITED STATES DEPARTMENT OF COMMERCE

Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

AUG 21 2000



APPLICATION NUMBER	FILING RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO./TITLE
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09/328,856 06/09/99 DAVIS

P 3144.01A

RECEIVED

AUG 25 2000 NOT ASSIGNED

OFFICE OF PETITIONS

2761

DATE MAILED:

07/02/99

## NOTICE TO FILE MISSING PARTS OF APPLICATION

Filing Date Granted

An Application Number and Filing Date have been assigned to this application. The items indicated below, however, are missing. Applicant is given TWO MONTHS FROM THE DATE OF THIS NOTICE within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a). If any of items 1 or 3 through 5 are indicated as missing, the SURCHARGE set forth in 37 CFR 1.16(e) of \$65.00 for a small entity in compliance with 37 CFR 1.27, or \$130.00 for a non-small entity, must also be timely submitted in reply to this NOTICE to avoid abandonment.

If all required items on this form are filed within the period set above, the total amount owed by applicant as a ☐ small entity (statement filed) ☒ non-small entity is \$ 1340.00

☒ 1. The statutory basic filing fee is:

- ☒ missing.  
☐ insufficient.

Applicant must submit \$ 760.00 to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).

☒ 2. The following additional claims fees are due:

\$ 450.00 for 25 total claims over 20.  
\$ \_\_\_\_\_ for \_\_\_\_\_ independent claims over 3.  
\$ \_\_\_\_\_ for multiple dependent claim surcharge.

Applicant must either submit the additional claim fees or cancel additional claims for which fees are due.

☒ 3. The oath or declaration:

- ☒ is missing or unsigned.  
☐ does not cover the newly submitted items.

An oath or declaration in compliance with 37 CFR 1.63, including residence information and identifying the application by the above Application Number and Filing Date is required.

☐ 4. The signature(s) to the oath or declaration is/are by a person other than inventor or person qualified under 37 CFR 1.42, 1.43 or 1.47.

A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.

☐ 5. The signature of the following joint inventor(s) is missing from the oath or declaration:

An oath or declaration in compliance with 37 CFR 1.63 listing the names of all inventors and signed by the omitted inventor(s), identifying this application by the above Application Number and Filing Date, is required.

☐ 6. A \$50.00 processing fee is required since your check was returned without payment (37 CFR 1.21(m)).

☐ 7. Your filing receipt was mailed in error because your check was returned without payment.

☐ 8. The application was filed in a language other than English.

Applicant must file a verified English translation of the application, the \$130.00 set forth in 37 CFR 1.17(k), unless previously submitted, and a statement that the translation is accurate (37 CFR 1.52(d)).

☐ 9. OTHER:

Direct the reply and any questions about this notice to "Attention: Box Missing Parts."

A copy of this notice **MUST** be returned with the reply.

Customer Service Center

Initial Patent Examination Division (703) 308-1202

08/23/2000 HAMMOND 00000001 09328856

02 FC:101

03 FC:103

04 FC:105

760.00 DP

450.00 DP

130.00 DP

Express Mail No. E150200 09528US